

Superseded 5/13/2014

73-3-29 Relocation of natural streams -- Written permit required -- Emergency work -- Violations.

- (1) Except as provided in Subsection (2), a state agency, county, city, corporation, or person may not relocate any natural stream channel or alter the beds and banks of any natural stream without first obtaining the written approval of the state engineer.
- (2)
 - (a) The state engineer may issue an emergency permit or order to relocate a natural stream channel or alter the beds and banks of a natural stream as provided by this Subsection (2) and Section 63G-4-502.
 - (b) If an emergency situation arises which involves immediate or actual flooding and threatens injury or damage to persons or property, steps reasonably necessary to alleviate or mitigate the threat may be taken before a written permit is issued subject to the requirements of this section.
 - (c)
 - (i) If the threat occurs during normal working hours, the state engineer or the state engineer's representative must be notified immediately of the threat. After receiving notification of the threat, the state engineer or the state engineer's representative may orally approve action to alleviate or mitigate the threat.
 - (ii) If the threat does not occur during normal working hours, action may be taken to alleviate or mitigate the threat and the state engineer or the state engineer's representative shall be notified of the action taken on the first working day following the work.
 - (d) A written application outlining the action taken or the action proposed to be taken to alleviate or mitigate the threat shall be submitted to the state engineer within two working days following notification of the threat to the state engineer or the state engineer's representative.
 - (e)
 - (i) The state engineer shall inspect in a timely manner the site where the emergency action was taken.
 - (ii) After inspection, additional requirements, including mitigation measures, may be imposed.
 - (f) Adjudicative proceedings following the emergency work shall be informal unless otherwise designated by the state engineer.
- (3) An application to relocate any natural stream channel or alter the beds and banks of any natural stream shall be in writing and shall contain the following:
 - (a) the name and address of the applicant;
 - (b) a complete and detailed statement of the location, nature, and type of relocation or alteration;
 - (c) the methods to be employed;
 - (d) the purposes of the application; and
 - (e) any additional information that the state engineer considers necessary, including, but not limited to, plans and specifications of the proposed construction of works.
- (4)
 - (a) The state engineer shall, without undue delay, conduct investigations that may be reasonably necessary to determine whether the proposed relocation or alteration will:
 - (i) impair vested water rights;
 - (ii) unreasonably or unnecessarily affect any recreational use or the natural stream environment;
 - (iii) unreasonably or unnecessarily endanger aquatic wildlife; or
 - (iv) unreasonably or unnecessarily diminish the natural channel's ability to conduct high flows.
 - (b) The application shall be approved unless the proposed relocation or alteration will:

- (i) impair vested water rights;
 - (ii) unreasonably or unnecessarily adversely affect any public recreational use or the natural stream environment;
 - (iii) unreasonably or unnecessarily endanger aquatic wildlife; or
 - (iv) unreasonably or unnecessarily diminish the natural channel's ability to conduct high flows.
- (c) The state engineer may approve the application, in whole or in part, with any reasonable terms to protect vested water rights, any public recreational use, the natural stream environment, or aquatic wildlife.
- (5) No cost incurred by the applicant, including any cost incurred to comply with the terms imposed by the state engineer, is reimbursable by the Division of Water Rights.
- (6) Except as provided in Subsection (2), a person who knowingly or intentionally relocates any natural stream channel, or alters the bed or bank of any natural stream channel without first obtaining the written approval of the state engineer is guilty of a crime punishable under Section 73-2-27.